

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

NATIONSTAR MORTGAGE, LLC,

No. C-14-1776 MMC

Plaintiff,
v.

**ORDER GRANTING PLAINTIFF'S
MOTION TO REMAND CASE TO STATE
COURT; VACATING JUNE 13, 2014
HEARING**

ERIK SEGELSTROM and CATHIE M.
HAMER,

Defendants.

Before the Court is plaintiff Nationstar Mortgage, LLC's Motion to Remand Case to State Court, filed May 5, 2014. Defendants Erik Segelstrom and Cathie M. Hamer have not filed opposition.¹ Having read and considered the papers filed in support of the motion, the Court deems the matter suitable for decision on said written submissions, VACATES the June 13, 2014 hearing, and rules as follows.

In its complaint, plaintiff alleges a single state law claim for unlawful detainer. Plaintiff argues the Court lacks subject matter jurisdiction over its complaint, and, additionally, the removal is procedurally improper to the extent it is based on diversity jurisdiction. The Court agrees.

//

¹Under the Civil Local Rules of this District, the deadline to file any opposition was May 22, 2014. See Civil L.R. 7-3(a) (providing, where motion is served on opposing party by mail, opposition must be filed 17 days after date motion is filed).

1 First, contrary to defendants' assertion in the Notice of Removal, plaintiff's complaint
2 does not seek relief under federal law, and, to the extent defendants may be arguing that
3 they have a defense under federal law, such assertion does not create federal question
4 jurisdiction. See Caterpillar Inc. v. Williams, 482 U.S. 386, 399 (1987) (holding "federal
5 defenses do not provide a basis for removal").


6 Second, contrary to defendants' assertion in the Notice of Removal, the Court lacks
7 diversity jurisdiction, given it is readily apparent from the face of the complaint that the
8 amount in controversy does not exceed the sum of \$75,000. See 28 U.S.C. § 1332(a)
9 (holding district court has jurisdiction over action between diverse citizens "where the
10 matter in controversy exceeds the sum or value of \$75,000"); Abrego v. The Dow Chemical
11 Co., 443 F.3d 676, 690 (9th Cir. 2006) (holding district court, for purpose of determining
12 propriety of diversity jurisdiction, should examine whether it is "facially apparent" from
13 complaint that amount in controversy does not exceed sum of \$75,000). The complaint
14 seeks damages of \$600 per day, accruing as of March 21, 2014 (see Compl. at 3), in an
15 amount "not exceed[ing] \$10,000" (see Compl. at 1), and defendants have offered no
16 evidence to show that, contrary to such allegations, the amount in controversy in fact
17 exceeds the sum of \$75,000.

18 Third, to the extent the removal is based on diversity of citizenship, the removal is
19 procedurally improper, because defendants allege they are citizens of California (see
20 Notice of Removal, caption and at 6:1-2), and a defendant who is a citizen of the state
21 where the complaint was initially filed may not remove the complaint on the basis of
22 diversity of citizenship, see 28 U.S.C. § 1441(b)(2).

23 Accordingly, the motion is hereby GRANTED, and the above-titled action is hereby
24 REMANDED to the Superior Court of California, in and for the County of Mendocino.

25 **IT IS SO ORDERED.**

26
27 Dated: May 27, 2014

28

MAXINE M. CHESNEY
United States District Judge